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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte VINCENT P. WALKER

Appeal 2009-009155
Application 10/799,037
Technology Center 3700

Before JENNIFER D. BAHR, KEN B. BARRETT, and FRED A. SILVERBERG, *Administrative Patent Judges*.

BARRETT, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Vincent P. Walker (Appellant) seeks our review under 35 U.S.C. § 134 of the final rejection of claims 1-14, 20-24, 26, and 27. Claims 15-17 and 25 have been canceled. Claims 18 and 19 have been objected to as being dependent upon a rejected base claim, but have been indicated as allowable if rewritten in independent form. We have jurisdiction under 35 U.S.C. § 6(b). We AFFIRM-IN-PART

THE INVENTION

Claim 1, reproduced below, is representative of the subject matter on appeal.

> 1. A shaving cartridge comprising:
>
> a blade unit comprising a housing having a front edge and a rear edge; and
>
> one or more shaving blades between the front edge and the rear edge; and
>
> a connecting member pivotally connected to the housing, the housing and connecting member defining opposing stop surfaces for limiting rotation of the blade unit relative to the connecting member;
>
> wherein a normal pivot angle is defined by the opposed stop surfaces;
>
> the connecting member having a load-bearing surface arranged and configured to contact the housing only when the housing is pivoted beyond a limit angle that is greater than the normal pivot angle.

THE REJECTIONS

The following Examiner's rejections are before us for review:

1. Claims 1-6, 11, 24, and 26 are rejected under 35 U.S.C. § 102(b) as being anticipated by Apprille (US 5,813,293, issued Sept. 29, 1998);

2. Claims 1, 24, and 26 are rejected under 35 U.S.C. § 102(b) as being anticipated by Coffin (US 6,442,850 B1, issued Sept. 3, 2002);

3. Claims 7-10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Coffin;

4. Claims 9 and 10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Apprille;

5. Claims 12-14, 22, 23, and 27 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Apprille and Rozenkranc (US 6,276,061 B1, issued Aug. 21, 2001); and

6. Claims 20 and 21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Apprille and Rozenkranc.

OPINION

1. Claims 1-6, 11, 24, and 26 are rejected as being anticipated by Apprille

In the invention of independent claim 1, the housing and connecting member define opposing stop surfaces for limiting rotation of the blade unit and the opposed stop surfaces define "a normal pivot angle." The claim also calls for the connecting member to have a load-bearing surface to contact the housing only when the housing is pivoted beyond a "limit angle" which is greater than the normal pivot angle. Independent claim 24 contains the same

or similar limitations. Appellant explains that the purpose of the opposed stop surfaces is to inhibit rotation during normal usage whereas the load-bearing surface serves a stop during over-rotation such as when the razor is dropped. Spec. 15.

The Examiner found that Apprille's "normal pivot angle" is zero degrees (the position of the housing when the razor is not in use, which is the majority of the time) and that the limit angle is any angular value beyond zero degrees up to the point of rotation just before the housing is stopped at the other extreme of rotation. Ans. 4-5, 10. Thus, the Examiner maintains, Apprille's device satisfies the requirement of a load-bearing surface that contacts only when the housing is pivoted beyond the limit angle. *Id.* at 5.

Appellant implicitly contends that the claims, when read in light of the Specification, require two pairs of opposed stop surfaces and asserts that the normal pivot angle refers to the range of normal rotation, not a single angular value. App. Br. 5-6, 7-8. The Examiner concluded that claim 1 does not, as Appellant urges, recite two pairs of opposed stop surfaces. Ans. 10-11. The Examiner maintains that the claims only require one pair of opposed surfaces (i.e. one on a stationary component and a mating one on a rotating component) and that the single pair defines a single angular value (in this case zero degrees). *Id.*

The Examiner's conclusion that the claimed "normal pivot angle" can be zero degrees is inconsistent with the Specification's description of the claimed invention. The Specification distinguishes the "rest position being zero degrees" from the normal rotation of the blade unit (angle γ). Spec. 15:8-14, fig. 40 (depicting normal rotation angle γ and the angle ω which is greater than γ and where the load bearing surface contacts the housing).

Accordingly, we conclude that one of ordinary skill in the art reading the claims in light of the Specification would not agree with the Examiner's conclusion that the rest position of zero degrees is the normal pivot angle. As such, the Examiner's construction is unreasonably broad. We cannot sustain the rejection of independent claims 1 and 24 and their respective dependent claims 2-6, 11, and 26 as being anticipated by Apprille.

2. Claims 1, 24, and 26 are rejected as being anticipated by Coffin

Appellant argues the rejected claims as a group. App. Br. 8-11. We select claim 1 as the representative claim, and claims 24 and 26 stand or fall with claim 1. 37 C.F.R. § 41.37(c)(1)(vii).

The Examiner offers two explanations as to how Coffin satisfies the limitations of claim 1. Ans. 6-7, 11-12. We focus on the second explanation (Figs. F and G at Ans. 7), and need not address the first.

The Examiner finds that Coffin's slider 25 together with sub-seat 14 constitutes the claimed connecting member and that blade cartridge 1 corresponds to the housing. Ans. 6; *see* Coffin, col. 5, ll. 18, 45-46. As depicted in the Examiner's annotated figures, when the cartridge 1 is in the biased, fully counterclockwise position, there are stop surfaces on opposing areas of the cartridge 1 and sub-seat 14 that are in contact with each other. Ans. 7, Figs. F & G; *see* Coffin, col. 5, ll. 33-36, fig. 6. Then, when force is applied (i.e. during shaving), the cartridge 1 can rotate clockwise until its underside contacts another portion of sub-seat 14 – at a second set of stop surfaces. *See* Ans. 7, Figs. F & G (identifying two sets of stop surfaces). The Examiner identifies this range of movement between these stop surfaces as the normal pivot angle. *Id.* at 7. Upon continued application of force, the

cartridge 1 continues to pivot until it contacts (either directly or through the sub-seat 14) the slider 25 at the maximum applied shaving force. *See* Ans. 7, Fig. 7; Coffin, col. 5, ll. 45-60, fig. 7. The Examiner finds that "[a] load bearing surface (Figure G) on the connecting member contacts the housing after the housing is pivoted beyond a limit angle (A)." Ans. 7. We determine that the Examiner has established a prima facie case of anticipation.

We have considered Appellant's arguments but do not find them persuasive. App. Br. 8-11. As to the argument that Coffin's housing (cartridge 1) contacts the slider *at*, rather than *beyond*, a limit angle, we agree with the Examiner that Appellant has not sufficiently defined "limit angle" so as to distinguish the reference. *See* Ans. 10 (discussing the term in the context of Apprille). The term "limit angle" is merely the label given to some angle greater than the normal pivot angle but less than the angle at which the housing contacts the load-bearing surface. Coffin's device operates in a manner similar to that described in Appellant's Specification (Spec., 15, ll. 15-22; rotation ceases when the housing contacts the load-bearing surface of connecting member), so we fail to see how Coffin lacks the recited stops or load-bearing surface which directly or indirectly define the normal pivot angle and the limit angle. We affirm the rejection of claims 1, 24, and 26 as anticipated by Coffin.

3. Claims 7-10 are rejected as being unpatentable over Coffin

For this rejection, Appellant does not offer any separate arguments but merely relies on the unpersuasive arguments made for the second rejection.

App. Br. 11-12. As such, we affirm the rejection of claims 7-10 as obvious in light of Coffin.

4. Claims 9 and 10 are rejected as being unpatentable over Apprille

In this rejection of claims 9 and 10, the Examiner relies on the above-discussed deficient application of Apprille in the context of the anticipation rejection, and maintains that the claimed normal pivot angle (41 and 41.5 to 45 degrees, respectively) would have been an obvious matter of optimized design choice. Ans. 8-9. However, the Examiner does not adequately explain why this would be so, particularly where the Examiner found that Apprille's normal pivot angle was zero degrees and a greater angle corresponds to the limit angle. We do not sustain the rejection of claims 9 and 10 as obvious in light of Apprille.

5. Claims 12-14, 22, 23, and 27 are rejected as being unpatentable over Apprille and Rozenkranc, and

6. Claims 20 and 21 are rejected as being unpatentable over Apprille and Rozenkranc

The claims subject to the fifth and sixth rejections pertain to the additional structure of a trimming blade and, in the case of claims 20 and 21, the specific pivot angle. Independent claim 14, the only independent claim in these groups, contains recitations of a normal pivot angle and a limit angle as in claim 1 discussed above in the context of the first rejection. In these fifth and sixth rejections, the Examiner relies on the above-discussed application of Apprille in the context of the anticipation rejection. Ans. 9. The Examiner relies on Rozenkranc for the teaching of a trimming blade, but

does not rely on Rozenkranc in any manner that cures the deficiency of the underlying rejection based on Apprille. Regarding claims 20 and 21, the Examiner again maintains that the claimed normal pivot angle (41 and 41.5 to 45 degrees, respectively) would have been an obvious matter of optimized design choice but does not adequately explain why that would be so. As such, we also reverse the rejection of claims 12-14, 20-22, 23, and 27 as being unpatentable over Apprille and Rozenkranc.

DECISION

The decision of the Examiner to reject claims 2-6, 11-14, 20-23, and 27 is reversed. The decision of the Examiner to reject claims 1, 7-10, 24, and 26 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED-IN-PART

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